

# Separation, Divorce, and the Army

**M**ILITARY families aren't immune to marital problems. The good news is that the Army can provide a professional team of counselors — including chaplains, psychologists and drug-abuse prevention experts — to help families get through rough times.

But when relationships have deteriorated beyond repair, legal help may be the next step. Your legal-assistance office provides counseling on separation and divorce options, civilian jurisdictions that can handle divorce cases, various states' differing legal requirements, the military benefits affected by divorce, the obligations of husband and wife, and the divorce process itself.

To ensure that client rights are protected, different offices are assigned to represent each party in a dispute.

The Army is concerned about the welfare of its people beyond the workplace, and without invading privacy, it seeks to help Soldiers and their families get through this stressful and often economically trying time. This effort also seeks to ensure a Soldier is fully committed to his or her job without being preoccupied with unresolved personal prob-

lems that adversely affect duty performance, and possibly endanger lives.

Appointments with legal-assistance attorneys average an hour for an initial consultation, at which time every aspect of divorce planning — ranging from military rights to state laws and even the federal Former Spouses Protection Act — are covered. A client may have only a few ques-

tions, but it is the attorney's job to determine if the individual needs answers to

additional questions to minimize further frustration.

Each military service has its own directive for the support of a member's spouse and children. Commanders who receive nonsupport complaints must counsel the Soldier and enforce financial support through a court decision, a separation agreement that specifies a monetary arrangement, or the minimum support for Army members set forth in Army Regulation 608-99. Soldiers who fail to comply with the regulation may be subject to disciplinary action under the Uniform Code of Military Justice, administrative reprimand or elimination from the service.

Many cases result in the parties having to live in separate quarters, as divorce may not be immediately possible. A separation/property-settlement agreement spells out the parties' obligations to each other, the children



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and the public at large. This document is prepared by Army legal-assistance attorneys and is extremely valuable, as it serves to resolve the issues normally presented in a contested divorce, thereby providing the cheapest and quickest divorce in the future (courts incorporate the agreement into the divorce decree,

and it continues as the mandate of the court after divorce).

The parties may not force each other to execute a separation agreement, since it is a voluntary agreement by both parties executed before a notary in at least two copies, one for each party.

Separation Agreement

Separation agreements vary and are tailored to the individual needs of each couple, but almost all must indicate the following:

- ✦ The day, month and year the parties did or will separate;
- ✦ The city and state of their marriage;
- ✦ Children's' names and birth dates;
- ✦ Name of the custodial parent and visitation rights of the other parent;
- ✦ A statement of whether the parties will exercise joint decision-making authority over the children.
- ✦ Who will pay for transportation when children visit;
- ✦ Amount, timing and duration of monthly child support payments;
- ✦ The percentage of college costs each parent will pay;
- ✦ Who will pay for packing and shipment of household goods;
- ✦ What property will each spouse receive;
- ✦ Who will be responsible for which debts;
- ✦ If a home is owned, what disposition will occur;
- ✦ The amount paid as spousal support (alimony);
- ✦ What percentage of retirement pay will be paid by one spouse to the other, either now or in the future
- ✦ Whether Spousal Benefit Program coverage will be provided after divorce;
- ✦ Whether life insurance will be provided;
- ✦ Who will pay for the ultimate court costs and attorney fees in a divorce;
- ✦ What becomes of the agreement if the parties elect to try living together again; and
- ✦ What the income tax arrangements will be.

**T**hink again if you're planning to slip across national boundaries or take another shortcut in the divorce process. "Quickie divorces" normally prove to be unsatisfactory because they most often don't take into account the many complex circumstances that may become issues later on.

Divorces obtained without personal jurisdiction over both parties — and which do not include decisions as to property distribution, debts, support or other issues — cannot be used to collect funds from the government under the Former Spouses Protection Act. In some cases, even the "divorce" may be challenged as invalid.

Further court proceedings will then be required, and this generally proves more costly than if the entire action had been

done correctly the first time.

Marriage breakups involve two parts. One is the marriage relation itself, which can be dissolved based on state law (there is no federal or military law on divorce).

The second part of a marriage concerns property rights, including child custody, which must be specifically addressed by a court. Simply achieving the dissolution of a relationship by using "do it yourself" kits is normally not enough when children and property rights are involved.

Considering the alternative, the help you will receive from your Legal Assistance office can save you hardship and emotional distress later on.

